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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND COMPLIANCE COMMITTEE

JOE SERNA JR., CALEPA BUILDING

COASTAL HEARING ROOM

1001 I STREET, 2ND FLOOR

SACRAMENTO, CALIFORNIA

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1:35 P.M.

JAMES F. PETERS, CSR, RPR  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Mr. Jeffrey Danzinger

Ms. Cheryl Peace

BOARD MEMBERS

Ms. Margo Reid Brown, Chairperson

Mr. Wesley Chesbro

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Chief Counsel

Mr. Howard Levenson, Program Director

Mr. Ted Rauh, Program Director

Mr. Mark de Bie, Chief, Permitting & LEA Support Division

Mr. Reinhard Hohlwein

Mr. Rick Kelley

Ms. Dianne Ohiosumua

Ms. Sue O'Leary

Mr. Ed Reidhead

Ms. Diana Suarez-Arguelles

Mr. Steve Uselton

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Eric Casper, California Waste Services

Mr. Richard Fierro, Consolidated Disposal Service

Ms. Marybelle Nzegwu, Center on Race, Poverty and the  
Environment

Mr. Michael Testerman, California District Attorneys  
Association

Mr. Wayne Tsuda, City of Los Angeles Local Enforcement  
Agency

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good afternoon, everybody.

3 Welcome to the July 9th meeting of the Permitting and  
4 Compliance Committee.

5 We have agendas on the back table. And if anyone  
6 would like to speak to an item, please fill out a speaker  
7 slip, which is also located on the back table, and bring  
8 it up to Donnell here up front, and you will have an  
9 opportunity to address our Committee.

10 And also, I would ask for everyone to either turn  
11 off or put in the silent mode your cell phones and pagers.

12 And before I call the roll, I would like to  
13 welcome back Board Member Cheryl Peace. Welcome back.

14 Board Member Peace was appointed as the Assembly  
15 member -- last month, was it, a few weeks ago?

16 COMMITTEE MEMBER PEACE: In June.

17 CHAIRPERSON MULÉ: In June. Okay.

18 Yes, it was last month.

19 So welcome back. It's good to have you back on  
20 the Committee and your expertise. So welcome back. It's  
21 good to have you back.

22 COMMITTEE MEMBER PEACE: Well, Thank you. And  
23 it's good to be back.

24 And with that, let's call the roll.

25 SECRETARY DUCLO: Member Danzinger?

1 Member Peace?

2 COMMITTEE MEMBER PEACE: Here.

3 SECRETARY DUCLO: Chair Mulé?

4 COMMITTEE MEMBER MULÉ: Here.

5 And we will hold the roll open for Board Member  
6 Danzinger. I know he's up here.

7 And I'd also like to welcome Board Member  
8 Chesbro. Thank you for being here today.

9 And, members, do we have any ex partes to report?

10 COMMITTEE MEMBER PEACE: Yes, I just said hello  
11 to George Larson and also to Pat Schiavo.

12 CHAIRPERSON MULÉ: Okay, great.

13 I'm up to date.

14 And, again, we'll hold that open for Board Member  
15 Danzinger.

16 And why don't we just get started with our  
17 Director's reports.

18 And just for everyone's knowledge, we're going to  
19 hear Item 7 first today. So we'll go Item 7, then Item 1,  
20 2, 3. Or I believe it's Committee Item H, and B, C, D.

21 So with that, Howard or Ted, do you want to get  
22 started?

23 Okay. Thank you.

24 PROGRAM DIRECTOR LEVENSON: Thank you, Madam  
25 Chair. Our two-headed Program Directors' report.

1           I'm Howard Levenson, Program Director for the  
2 Sustainability Program. And I just have one item that I'd  
3 like to report on today. And it actually sets a little  
4 bit of context for Item 2 on Hawaiian Gardens and the  
5 compliance order.

6           Earlier this year the Board placed the cities of  
7 Paramount, Downey, and Cerritos on compliance orders for  
8 failure to achieve diversion requirements. And each of  
9 those orders required that a local assistance plan be  
10 developed that outlines the activities that the cities  
11 would commit to fully implementing by the end of this  
12 calendar year.

13          The orders also noted that the plans had to be  
14 developed and agreed to by the city and by Board staff by  
15 July 1st of this year.

16          Board staff worked with the cities to identify  
17 the various program gaps that need attention. And each of  
18 the plans has been developed and agreements are in place.

19          Of course the plans differ for each city, but  
20 include things like augmentation of existing programs, new  
21 C&D handling provisions and ordinances, enhancements to  
22 commercial diversion programs, and rolling out curbside  
23 recycling to areas where there hadn't been any previous  
24 service.

25          So with the plans now in place for each of those



1 three jurisdictions, Board staff and the Sustainability  
2 Program will continue to provide assistance to the  
3 jurisdictions as they implement the plans.

4 And then given our reorganization into two  
5 different programs, quarterly monitoring will be supported  
6 by staff in the Waste Compliance and Mitigation Program.  
7 And then there will be coordination between the staff of  
8 both programs to ensure that the cities take the actions  
9 that are needed to implement the plans within the  
10 scheduled time frames.

11 So I just wanted to report on that achievement  
12 for those three cities.

13 CHAIRPERSON MULÉ: Thank you, Howard.  
14 Ted.

15 PROGRAM DIRECTOR RAUH: Yes, Madam Chair. That's  
16 Ted Rauh, Program Director for the Waste Mitigation and  
17 Compliance Program. I have just a couple items I'd like  
18 to report on.

19 First, I just wanted to bring you up to speed  
20 with the status of the financial assurance contract. That  
21 particular contract, which was approved by the Board in  
22 May, was led on June 14th. And we have -- staff's gone  
23 ahead and assembled the AB 2296 advisory group. And the  
24 contract was delivered -- the work plans as the first  
25 product of that effort. And they've been distributed to

1 the working group. And we expect the working group's  
2 comments back tomorrow. So we're rolling on that  
3 particular effort.

4 The next item I'd like to mention is a local  
5 emergency in Fresno County. We were advised just today of  
6 an unfortunate event. Some 50,000 turkeys died over the  
7 weekend, and several local jurisdictions have moved into  
8 play. The carcasses are being -- not quite as fuzzy now.

9 Here we go.

10 Anyway, the carcasses themselves -- so this was  
11 an opportunity to potentially use the Board's recently  
12 approved emergency regulations to compost. Unfortunately  
13 because the turkeys had not been processed, the feathers  
14 prevented composting. So they are being disposed of in  
15 landfills. And the local emergency was put in place, and  
16 we'll have more information as we go forward.

17 But we're hoping that the emergency provisions  
18 that you've adopted will be usable in the next event.

19 Next item I'd like to talk about is AB 75 status.  
20 We had an item which was pulled. And I just wanted to  
21 recognize the substantial work by staff to achieve that.  
22 When we first began to notice that item we had over 30  
23 jurisdictions -- state jurisdictions who had failed to  
24 submit their plans. And through the aggressive efforts of  
25 staff and the hard work of those jurisdictions, all 30

1 were able to submit their plans in time so that we were  
2 able to pull that item. But Kathy Marsh, Gale Tong, Kim  
3 Oakley, Mark Umfress, and Anthony Marin are the Board  
4 staff who are key in making that all happen.

5 CHAIRPERSON MULÉ: Great. Well, congratulations  
6 to everyone. Thank you for all your work.

7 PROGRAM DIRECTOR RAUH: Finally, I'd like to just  
8 mention very quickly the Angora fire, which has been in  
9 everyone's minds here in northern California. And, again,  
10 the Board staff responded admirably to a dire situation.

11 Bernie Vlach was there on scene prior to the fire  
12 being under control, advising the county and other  
13 officials on debris management and debris planning. Also,  
14 Todd Thalhamer has also been involved in the emergency  
15 response center. And we'll have a special item tomorrow  
16 which we'll be briefing you on. But I just wanted to  
17 recognize them for their stalwart effort over the last  
18 couple of weeks and also back here in headquarters Bill  
19 Orr and Scott Walker as well as Wes Mindermann, who have  
20 been key in providing resources to help us carry out that  
21 mission.

22 And that's my report.

23 CHAIRPERSON MULÉ: Great. Thank you very much,  
24 Ted.

25 And let the record reflect Board Member Danzinger

1 has joined us.

2 SECRETARY DUCLO: Member Danzinger?

3 COMMITTEE MEMBER DANZINGER: Here.

4 CHAIRPERSON MULÉ: And do you have any ex partes,  
5 Board Member Danzinger?

6 COMMITTEE MEMBER DANZINGER: No, I'm up to date.

7 CHAIRPERSON MULÉ: Okay, great. Thank you.

8 Okay. Let's move then to Item 7. It is

9 Committee Item H.

10 PROGRAM DIRECTOR RAUH: Yes, Madam Chair. Item 7  
11 is a Consideration of a New Full Solid Waste Facility  
12 Permit for a Large Volume Construction and Demolition  
13 Inert Debris Processing Facility for California Waste  
14 Services LLC in the City of Los Angeles. And here to  
15 present the item is Rick Kelley.

16 Rick.

17 MR. KELLEY: Good afternoon, Madam Chair and  
18 Board members.

19 Also here with us today is Mr. Eric Casper, who  
20 is the owner/operator of California Waste Services, and  
21 Mr. Wayne Tsuda, who is the LEA Program Director for the  
22 City of Los Angeles.

23 The proposed permit would allow the following: A  
24 permitted tonnage of 1,000 tons per day; a traffic volume  
25 of 217 vehicles per day. Also, the proposed hours of

1 operation for material acceptance is going to be Monday  
2 through Friday, 6 to 10 p.m. This is a one-hour reduction  
3 from the current permit, as the operation currently opened  
4 at 5.

5 The hours of operation for material processing  
6 will be from 6 a.m. to 10 p.m., seven days per week.  
7 These hours have also been reduced by one hour, as they  
8 currently begin at 5.

9 Additionally the proposed permitted acreage for  
10 the facility is 2.5 acres. This is a reduction of 1/2  
11 acre from the current pen 3-acre permit.

12 Also I'd like to please note on page 1, section  
13 2, Item History of the Agenda Item, the 2007 LEA  
14 inspections are not noted. At this time I would like to  
15 state between January and June of 2007, the LEA has not  
16 issued any violations nor have they noted any areas of  
17 concern.

18 Board staff has determined that all the  
19 requirements for the proposed permit have been fulfilled  
20 and recommends the Board adopt Board Resolution No.  
21 2007-153, concurring with the issuance of Solid Waste  
22 Facility Permit No. 19-AR-1225.

23 This concludes the staff's presentation. We're  
24 available for any questions.

25 CHAIRPERSON MULE: Thank you very much.

1 Does anybody have any questions on this?

2 Board Member Peace.

3 COMMITTEE MEMBER PEACE: I know we got a lot of  
4 letters from people concerned.

5 Has this facility never gotten any -- has the LEA  
6 never gotten any complaints from the residents before?

7 MR. TSUDA: Wayne Tsuda, appearing for the City  
8 of Los Angeles LEA.

9 I'm not sure what letters you are referring to.  
10 When we conducted a public hearing on May 8th of this  
11 year, we had ten community members that attended the  
12 meeting. In addition to the ten, we had an interested  
13 party list of 66 members who are people who live within  
14 500 feet of the facility. We had sent e-mails and  
15 hand-delivered notes to all of the people on the  
16 interested party list.

17 And we have received one response that was  
18 duplicated 24 times. Basically one of the attendees had  
19 gone to each of the neighbors and asked them to sign a  
20 comment sheet that we had handed out at our public  
21 meeting. But those comments were all consistently the  
22 same. The same comment was concerns about air quality,  
23 concerns about dust and noise. And since the public  
24 meeting, the LEA has conducted a noise survey behind the  
25 facility in two locations to determine whether or not the

1 facility's in violation of the L.A. City noise ordinance,  
2 and we found that it was not.

3           However, there were some occasional impact noises  
4 from the bins being placed on the ground. So  
5 instantaneous noise that resulted in a sound level above  
6 the city noise ordinance. But those levels are not  
7 enforceable by the city as well. It's too brief of an  
8 excursion.

9           The other issue, dust, was raised by the  
10 community. And at the same time they were talking about  
11 the facility, there were other people complaining about  
12 dust raised at the nearby park from soccer players. So  
13 we and the LEA had a problem trying to determine whether  
14 or not the dust is coming from the facility or it's coming  
15 from the park, and we're conducting a dust study for that  
16 purpose. And that study has not been completed. But  
17 either way we'll have some data, and we'll be working with  
18 the facility operator to reduce the dust if the dust is  
19 coming from their property.

20           COMMITTEE MEMBER PEACE: I notice that it is  
21 designated light industrial. Do other noisy businesses  
22 also start at six in the morning? Is that the noise  
23 ordinance time?

24           MR. TSUDA: Yeah, there are other  
25 noise-generating businesses in the area. It's also

1 adjacent to a railroad track and close to a freeway.

2 COMMITTEE MEMBER PEACE: So a lot of noise.

3 MR. TSUDA: Fairly high noise --

4 COMMITTEE MEMBER PEACE: But the other industries  
5 also start at six, so that's not --

6 MR. TSUDA: Right, they start at six. The zoning  
7 allows them 24/7 operation. However, they have  
8 voluntarily reduced their hours to six -- or to start at 6  
9 a.m.

10 COMMITTEE MEMBER PEACE: Okay. So you feel like  
11 all the concerns that the community had have been  
12 addressed?

13 MR. TSUDA: Yes, they're being addressed. And  
14 we're continuing to inform the community via our  
15 interested party list of what's going on. For example, we  
16 sent them a copy of the noise study. And we have not  
17 received any comments about that.

18 COMMITTEE MEMBER PEACE: Okay. Thank you.

19 CHAIRPERSON MULÉ: Do you have any questions,  
20 Board Member Danzinger?

21 COMMITTEE MEMBER DANZINGER: No, I'll just say --  
22 I'm mean I'm glad to hear that, because I mean that is a  
23 condition of the permit, that if you've got the dust or  
24 noise issues, work with a qualified contractor to either  
25 monitor or learn what the source is. So I'll be



1 interested in hearing what the results of that are and,  
2 you know, what actions are taken in response to those  
3 findings.

4 So thanks.

5 CHAIRPERSON MULÉ: I just had a question. I  
6 really appreciate the summary of the public comments from  
7 the 1497 hearing. And under Air Quality it says, "Dust  
8 and noise generation must be minimized to the maximum  
9 practical extent feasible through work practices,  
10 maintenance, and engineering controls, if needed."

11 My question is is -- I know you're conducting  
12 this dust -- this study to determine the source of the  
13 dust. But does the operator have an existing dust  
14 procedures, you know --

15 MR. TSUDA: Yes.

16 CHAIRPERSON MULÉ: -- you know, something in  
17 place so that I as a citizen would know what they are  
18 doing? This was a little vague to me. And I was hoping  
19 that they would have some sort of -- you know, some  
20 specific procedures already in place.

21 MR. TSUDA: They do. And a lot of it has to do  
22 with their yard people manually wetting down the loads as  
23 they're dumped.

24 The reference to engineering controls, if  
25 necessary, was added by the LEA. If those individual

1 efforts fail, then we would require ventilation or

2 enclosure something if we can't get --

3 CHAIRPERSON MULÉ: And I guess that's what it  
4 was. I didn't know what the extent of the existing dust  
5 control procedures were. So it would be nice to have that  
6 somewhere documented.

7 MR. TSUDA: Okay.

8 COMMITTEE MEMBER DANZINGER: Yeah, the permit  
9 only references the sweeping.

10 CHAIRPERSON MULÉ: Right.

11 MR. TSUDA: Did you want to mention what your --

12 MR. CASPER: I'm Eric Casper, the owner of  
13 California Waste Services.

14 CHAIRPERSON MULÉ: Hi.

15 MR. CASPER: We have initiated and installed  
16 misting systems along the entire perimeter of the facility  
17 voluntarily. We have a dust quenching process that is  
18 part of our training manual for all our staff. I think  
19 the LEA would attest to our proactive responses to the  
20 community's concerns. We've been there for five years.

21 The letter that he's referring to is one neighbor  
22 that I've had a contentious relationship with. It's not  
23 indicative of the whole neighborhood.

24 CHAIRPERSON MULÉ: Thank you for that further  
25 explanation. But, again, in the information that we have,

1 it doesn't indicate, you know, the extent of your dust  
2 minimization procedures. So thank you for sharing that  
3 further detail with us. Appreciate it.

4 COMMITTEE MEMBER DANZINGER: You mentioned the  
5 term -- what did you say, dust quenching?

6 MR. CASPER: Yeah.

7 COMMITTEE MEMBER DANZINGER: Is that just a  
8 general term to minimize dust or is that a particular  
9 process?

10 MR. CASPER: Well, it's a fine line because you  
11 have storm water issues. But what you have to do is when  
12 loads are dumped, dust comes out when the load is dumped.  
13 So you quench it with a two-inch fire hose.

14 COMMITTEE MEMBER DANZINGER: Oh, okay. You've  
15 got to keep that water on site, right? You've got to keep  
16 the runoff from going off?

17 MR. CASPER: Absolutely, yeah.

18 MR. KELLEY: Madam Chair, I'd like to add that  
19 the dust control systems that Mr. Casper is talking about  
20 is detailed in full in the TPR the technical document's  
21 with.

22 CHAIRPERSON MULÉ: Yeah, because it's not in the  
23 permit.

24 MR. KELLEY: It is with the TPR.

25 CHAIRPERSON MULÉ: Very good. That's what I

1 needed to know.

2 Thank you.

3 Any other questions?

4 Do I have a motion?

5 COMMITTEE MEMBER DANZINGER: Yeah, I'll move

6 Resolution 2007-153.

7 COMMITTEE MEMBER PEACE: Second.

8 CHAIRPERSON MULÉ: We have a motion by Board

9 Member Danzinger, second in by Board Member Peace.

10 Donnell, please call the roll.

11 SECRETARY DUCLO: Member Danzinger?

12 COMMITTEE MEMBER DANZINGER: Aye.

13 SECRETARY DUCLO: Member Peace?

14 COMMITTEE MEMBER PEACE: Aye.

15 SECRETARY DUCLO: Chair Mulé?

16 CHAIRPERSON MULÉ: Aye.

17 We'll put that one on consent.

18 Thank you all very much.

19 And I would like to recognize Chair Brown has

20 just joined us.

21 Hello.

22 We're now going to move to Item 1, Committee Item

23 B.

24 PROGRAM DIRECTOR LEVENSON: Thank you, Madam

25 Chair.

1           This item is Consideration of the Amended  
2 Nondisposal Facility Element for the Unincorporated Area  
3 of San Bernardino County.

4           Before I turn this over to staff, I just want to  
5 acknowledge that we've received, and you have as well, a  
6 number of e-mails over the last week from concerned  
7 citizens. And I do want to thank our staff, Diana  
8 Suarez-Arguelles, Catherine Cardozo, Cara Morgan from  
9 Sustainability Program; and then Tamar Dyson and Elliot  
10 Block from Legal Office for at least responding to those  
11 folks, at least an initial response as quickly as we  
12 could.

13           And of course we've constrained our responses to  
14 the planning-related aspects of those e-mails. There were  
15 many permit-related questions as well, but that is not the  
16 subject of this particular item.

17           So with that, I will turn it over to Diana for  
18 presentation. And she'll be ably assisted by Mr. Block  
19 from the Legal Office.

20           CHAIRPERSON MULÉ: Right. Good.

21           Elliot, did you want to go first?

22           Good afternoon, Diana.

23           MS. SUAREZ-ARGUELLES: Good afternoon, Chair Mul  
24 and Committee members.

25           The unincorporated area of San Bernardino County

1 has amended its nondisposal facility element to identify  
2 and describe Nursery Products LLC, a proposed new  
3 composting facility. Nursery Products LLC will be  
4 processing biosolids and green waste materials to produce  
5 agricultural-grade compost.

6           The Waste Compliance and Mitigation program has  
7 tentatively scheduled to take the proposed permit for this  
8 facility to the Board for consideration in August.

9           The county has submitted all required  
10 documentation for the amendment and staff therefore  
11 recommends its approval.

12           However, this item is coming before you today  
13 instead of to the Executive Director as a delegated item  
14 because of its controversial nature. Specifically, the  
15 interest group, Center on Race, Poverty, and the  
16 Environment, on behalf of community residents, and several  
17 community residents themselves have written to staff about  
18 their concerns with the proposed facility and the county's  
19 process for amending its NDFE to include this facility.

20           To give you a little background, there is a  
21 history of community concerns associated with past Nursery  
22 Products facility citing attempts.

23           Staff is aware that issues have continued to be  
24 raised relative to the current proposed location by  
25 residents surrounding the proposed Nursery Products

1 composting facility who have concerns about the potential  
2 environmental and health impacts of the facility  
3 associated with this item.

4           The proposed new compost site in the  
5 unincorporated area of San Bernardino County will be the  
6 third proposed location.

7           Board staff is also aware that there is pending  
8 litigation relative to the county board of supervisors'  
9 approval of the project.

10           I would like to now pass the presentation to our  
11 legal counsel.

12           CHIEF COUNSEL BLOCK: Thank you.

13           As you're considering the item today and any  
14 testimony that you may be hearing, I wanted to do two  
15 things: Provide some context about nondisposal facility  
16 elements; and then I'll also briefly explain the reasons  
17 behind staff's recommendation despite the issues that have  
18 been raised.

19           First, in terms of the item in terms of context,  
20 there's two things I'd request that you'd keep in mind,  
21 and those people that are testifying and also listening  
22 over the Internet. The NDFE is a planning document. It's  
23 not a permitting document. It's designed for  
24 jurisdictions to have a list of facilities they plan on  
25 using to implement their source reduction and recycling

1 elements. It's just required to have some basic  
2 descriptive information. It doesn't set forth permit  
3 terms and conditions. It doesn't set forth very specific  
4 types of limitations on the facilities. It's a  
5 descriptive document. And that's in fact reflected in the  
6 statute itself, which provides that jurisdictions are only  
7 required to include in a nondisposal facility element the  
8 information they have at the time that they're preparing  
9 it. It's a fairly informal document in that regard.

10           Secondly, in terms of context, the local task  
11 force, which has also been the subject of some of the  
12 e-mails that we've received, is an advisory body. It  
13 reviews and provides comments to the local governing body,  
14 in this case the board of supervisors, about that none  
15 nondisposal facility element. But its role is not to  
16 approve or deny an NDFE amendment. It simply provides  
17 comments to the board of supervisors, which is the  
18 decision maker. And the comments that it provides are the  
19 local task force members' comments. While it may hear  
20 comments from members of the community, its role is not to  
21 necessarily forward those on to the board of supervisors  
22 itself. It's to take those in and provide their own  
23 comments.

24           So with that context in terms of the  
25 recommendation before you, a couple of points I just



1 wanted to make, and then answer any questions obviously if  
2 you have them.

3           The nondisposal facility element that is before  
4 you contains the minimally required information required  
5 by statute and regulation. It was approved by and  
6 forwarded to the Board by the board of supervisors. The  
7 board of supervisors did have comments from the local task  
8 force when it made that decision.

9           Some of the opponents of this NDFE amendment have  
10 not provided any information that the NDFE amendment is in  
11 fact not meeting those minimal requirements of statute or  
12 regulations. They've indicated they think it should  
13 include more information, but not that it doesn't meet the  
14 minimum requirements.

15           And because this item after the local task force  
16 reviewed it still had to go before the board of  
17 supervisors who need today approve it, there was an  
18 opportunity at that meeting for members of the public to  
19 provide comment on the nondisposal facility element. And  
20 in fact at least some of them were there at that meeting.  
21 In fact, a lot of them had the opportunity to provide  
22 comments directly to the decision maker rather than  
23 through the local task force.

24           One other allegation that's been made is that  
25 the -- some of the opponents of the nondisposal facility

1 element were denied an opportunity to provide some input  
2 to the local task force. This is information at this  
3 point we haven't been able to substantiate that that in  
4 fact occurred. The local task force did have this item on  
5 its agenda. And of course as we had mentioned, even if  
6 there were some irregularities, the opponents of the  
7 nondisposal facility element did have an opportunity then  
8 to testify before the board of supervisors.

9           So while I'm not sure how many people might be in  
10 the audience today to provide some testimony, to the  
11 extent that some people are here to provide testimony on  
12 this, I really would suggest respectfully that the  
13 comments be limited to those that are relevant to the  
14 NDFE, not to permit terms and conditions. The Board will  
15 be hearing a proposed permit for this site. At the moment  
16 it's scheduled I believe for August, next month. And so  
17 there will be an opportunity for comment on the  
18 particulars of the facility itself.

19           And with that, I don't know if Diana had some  
20 closing comments.

21           MS. SUAREZ-ARGUELLES: Representatives from the  
22 county and the facility are also present to answer any  
23 questions you may have.

24           This concludes our presentation. Thank you.

25           CHAIRPERSON MULÉ: Thank you, Diana.

1           Before we take any questions, we do have one  
2 speaker. So I'd like to give her the opportunity to speak  
3 first.

4           Marybelle Nzegwu, would you please come forward.  
5           And please state your name for the record please.

6           MS. NZEGWU: Good afternoon.

7           CHAIRPERSON MULE: Good afternoon.

8           MS. NZEGWU: My name is Marybelle Nzegwu. I am  
9 from the Center on Race, Poverty, and the Environment.  
10 And I'm here to speak on behalf of Ingrid Brostrom, who  
11 could not be here today.

12           We would like to bring to your attention the fact  
13 that there are procedural irregularities here and that  
14 legal procedures were not followed in terms of under the  
15 local rules -- in the California Rules of Court -- I'm  
16 sorry -- the SWAT is entitled to participate in the  
17 amendment process. And in the hearing that the SWAT held,  
18 they were not provided with a copy of the amendment prior  
19 to submitting it for the Board's approval.

20           Second of all, the application that the county  
21 submitted did not include all of the participating  
22 jurisdictions. And that is a requirement, because when  
23 reviewing the project, the Board -- sorry -- the SWAT  
24 needs to know all the jurisdictions that the waste is  
25 coming from. This is one of the main purposes of the

1 SWAT's participation. And so this Board cannot approve  
2 the project, cannot approve the application, because it  
3 has no discretion to pick and choose which regulations to  
4 apply. If the legal procedures were not followed, then  
5 the Board cannot approve the project, and it should be  
6 sent back to the SWAT.

7 That's all.

8 CHAIRPERSON MULÉ: That concludes your  
9 presentation?

10 MS. NZEGWU: Yes.

11 CHAIRPERSON MULÉ: Thank you very much for being  
12 here today. We really appreciate your comments.

13 Elliot, did you want to respond to those?

14 CHIEF COUNSEL BLOCK: Sure.

15 I believe two points were raised: One, that the  
16 SWAT was not provided with a copy of the amendment.

17 The requirements that the SWAT be provided with a  
18 description of the facility, we've reviewed the minutes of  
19 the meeting and the documents of the meeting, and there  
20 was a discussion in front of the SWAT, which is the local  
21 task force in San Bernardino County, related to the  
22 facility.

23 Secondly --

24 COMMITTEE MEMBER DANZINGER: Elliot, you're  
25 referring to the April 20, '06, meeting, correct?

1 CHIEF COUNSEL BLOCK: April 2006, yes.

2 Secondly, it's been stated the application -- I  
3 assume she means description -- did not include a list of  
4 all the participating jurisdictions. Again, while -- as I  
5 mentioned in some of my earlier comments, the requirement  
6 is that the NDFE include the information available at the  
7 time to the jurisdiction when it's prepared. The minimum  
8 requirement is that there be at least one participating  
9 jurisdiction listed in the description that was provided.  
10 The NDFE again, because it is a planning document and not  
11 a permitting document, does not restrict who may or may  
12 not use that facility in the future.

13 Therefore, as I had indicated, again the NDFE  
14 amendment as far as the information we've provided meets  
15 all the minimal requirements. I believe some opponents  
16 wish it included more information, but that's not required  
17 by our statute.

18 And, again, to reiterate, this information that's  
19 been provided today about the SWAT's information was also  
20 provided to the board of supervisors, who are actually  
21 the -- it was actually the body that decides whether to  
22 approve the amendment.

23 CHAIRPERSON MULÉ: Okay. Thank you very much.

24 I don't know -- I do see members of the county  
25 here. And I don't know if they want to address this at

1 all or --

2 BOARD MEMBER CHESBRO: Madam Chair?

3 CHAIRPERSON MULÉ: Yes.

4 BOARD MEMBER CHESBRO: May I ask the speaker a

5 question --

6 CHAIRPERSON MULÉ: Sure.

7 BOARD MEMBER CHESBRO: -- the person who just

8 spoke?

9 CHAIRPERSON MULÉ: Would you mind coming back up,

10 Mary?

11 Thank you.

12 BOARD MEMBER CHESBRO: What I heard were concerns

13 about procedure.

14 MS. NZEGWU: Um-hmm.

15 BOARD MEMBER CHESBRO: Are there objections in

16 substance to the facility in terms of impacts that the

17 community's concerned about? I'm trying to figure out why

18 those procedures would matter to the organization that you

19 represent.

20 MS. NZEGWU: Sure. At this time we raise no

21 substantive issues, primarily because the process for

22 public comment was not followed and -- at the SWAT level

23 there was no public participation, there was no

24 opportunity for opposite -- opposition -- I'm sorry -- to

25 the project to be raised.

1           So at this time, we do request that the amendment  
2 go back to the SWAT level so at that level opponents can  
3 have an opportunity to be heard and the process can start  
4 over without the procedural irregularities.

5           BOARD MEMBER CHESBRO: Thank you.

6           CHAIRPERSON MULÉ: Okay. Do we have any other  
7 questions on this item?

8           Comment.

9           COMMITTEE MEMBER PEACE: You know, I just want to  
10 say, I did read the letter from the Center on Race,  
11 Poverty, and the Environment, as well as all the letters  
12 received from concerned citizens. And I also read the  
13 March 20th transcript of the board of supervisors meeting.  
14 And the transcript answered many of the questions that I  
15 had regarding the concerns of the CRPE and the residents.  
16 And I have to say that, you know, I feel as our legal  
17 staff does, that the NDFE process was handled correctly by  
18 the board of supervisors and, as stated, that in the  
19 facility to the NDFE is not a hearing regarding the merits  
20 of this project; that the NDFE is just a planning  
21 document. And all of the concerns that the community will  
22 have regarding the flies and the odors and the dust, those  
23 will all be addressed during the permitting process.

24           CHAIRPERSON MULÉ: Very well stated. Thank you.

25           Do I have a motion?

1 COMMITTEE MEMBER PEACE: I'd like to move

2 Resolution No. 2007-145.

3 COMMITTEE MEMBER DANZINGER: Second.

4 CHAIRPERSON MULÉ: Moved by Board Member Peace,

5 seconded by Board Member Danzinger.

6 Please call the roll, Donnell.

7 SECRETARY DUCLO: Members Danzinger?

8 COMMITTEE MEMBER DANZINGER: Aye.

9 SECRETARY DUCLO: Peace?

10 COMMITTEE MEMBER PEACE: Aye.

11 SECRETARY DUCLO: Chair Mulé?

12 CHAIRPERSON MULÉ: Aye.

13 We'll put that one on consent as well.

14 Thank you all very much for being here.

15 Our next item is Committee Item C, Board Agenda

16 Item 2.

17 PROGRAM DIRECTOR LEVENSON: Thank you, Madam

18 Chair.

19 Item C is consideration of the 2003-2004 Biennial

20 Review Findings for the Source Reduction and Recycling

21 Element; and Consideration of Issuance of a Compliance

22 Order for the City of Hawaiian Gardens in Los Angeles

23 County.

24 And Ed Reidhead of our staff is going to make

25 that presentation. Along with him is Steve Uselton from



1 our southern California office. And of course Cara Morgan  
2 and myself.

3 MR. REIDHEAD: Thank you, Howard.

4 Good afternoon, Chairperson Mulé and members of  
5 the Board.

6 Board staff is bringing forward its 2003-2004  
7 Biennial Review Findings that the City of Hawaiian Gardens  
8 has failed to adequately implement its diversion programs  
9 to meet state diversion requirements in PRC 41780.

10 Board staff have reviewed the city's 2003-2004  
11 program implementation and diversion rate using available  
12 information from the city's annual reports; waste hauler  
13 tonnage reports; Los Angeles County solid waste disposal  
14 activity reports; and consultations and visits with city  
15 staff, franchise hauler, and the primary waste handling  
16 facilities to review program implementation efforts and  
17 identify possible reasons for the city's not achieving the  
18 50 percent diversion requirement.

19 Staff's review to date points to the need for  
20 program improvement in the city's residential, commercial,  
21 and C&D recovery programs.

22 The City of Hawaiian Gardens was issued a time  
23 extension through December 2003. The city's time  
24 extension indicated that a C&D ordinance would be adopted  
25 and implemented. To date, the city enacted a C&D

1 ordinance. However, the ordinance has not been fully  
2 implemented, and record keeping for the ordinance is  
3 incomplete.

4 Board staff visited the facility where the city's  
5 hauler takes all commercial waste from MRF processing.  
6 The hauler's 2004 tonnage report indicates approximately  
7 26 percent of commercial waste handled by the franchise  
8 hauler was diverted.

9 In the residential sector a three-bin curbside  
10 collection system is used. But reported diversion from  
11 the program indicates that only 16 percent of materials  
12 collected at the curbside are being diverted.

13 The overall diversion rate of 40 percent as  
14 measured in 2003 and 2004 is determined by taking a  
15 broader analysis of all programs within the city,  
16 including franchise hauler programs, business source  
17 separation programs that are implemented independently of  
18 the franchise hauler, city and school programs, and  
19 construction and demolition recovery.

20 The city's diversion rate is derived using  
21 estimated generation from the adjustment method  
22 calculation that adjusts based year generation tonnage for  
23 changes in population, taxable sales, and employment.  
24 Staff also reviewed actual diversion data from other  
25 sources including franchise hauler collection summary

1 reports, business diversion data for materials not handled  
2 by the franchise hauler, local buyback recycling center  
3 data, and other diversion data in order to check the  
4 accuracy of the diversion rate.

5 Both methods of determining the city's diversion  
6 rate yielded similar results. The city's diversion rate  
7 is a round 40 percent.

8 To correct these problems, the city will need to  
9 evaluate program participation, contamination levels, and  
10 processing facility recovery. Board staff's review  
11 findings indicate that additional public education is also  
12 needed in this community to further involve residents in  
13 existing programs.

14 Board staff therefore recommends that the Board  
15 consider issuing the city a compliance order that will  
16 require the city to work directly with Board staff to  
17 develop a local assistance plan that will identify a  
18 strategy for program enhancements and local actions  
19 necessary to enable the city to achieve diversion  
20 requirements.

21 This concludes my presentation.

22 Mr. Robert Salazar, Public Works Supervisor; Mr.  
23 Ernesto Marquez, City Administrator; and Mr. Joe Colombo,  
24 Director of Community Development for the city, are here  
25 today to answer any questions.

1           CHAIRPERSON MULÉ: Thank you, Edward. Great  
2 presentation.

3           Do we have any questions for either staff or the  
4 jurisdiction?

5           Board Member Danzinger.

6           COMMITTEE MEMBER DANZINGER: Just a couple  
7 questions.

8           First of all, I'm trying to figure out how you  
9 even got to 40 percent with some of these other numbers.  
10 But, you know, I guess -- yeah, I guess the good news is,  
11 you know, with so many opportunities remaining to improve,  
12 you know, and being at 40 percent, so I think we can  
13 probably be optimistic to get there.

14           But just a clarity on a couple things. Ed, you'd  
15 mentioned the 26 percent. And the way it's written in  
16 here in the item is report of 26 percent commercially  
17 collected waste being diverted through processing at a  
18 MRF. Okay, so that's how much of what's being -- that's  
19 the collection.

20           What is the diversion rate at the MRF? Because  
21 it -- you know, I'm just curious, because I think the MRF  
22 processing -- I wonder if that's one of the issues.

23           MR. REIDHEAD: Yes. We do have a representative  
24 of the hauler that the material goes to their MRF.

25           COMMITTEE MEMBER DANZINGER: Right.

1 MR. REIDHEAD: They might be able to give us  
2 information on that, Mr. Danzinger.

3 COMMITTEE MEMBER DANZINGER: Okay. Yeah, because  
4 I mean --

5 MR. REIDHEAD: I don't have that.

6 MR. USELTON: If I could just comment on that as  
7 well.

8 The way that the commercial waste is handled --

9 CHAIRPERSON MULÉ: Steve, you need to state your  
10 name for the record.

11 MR. USELTON: Steve Uselton.

12 The way the commercial waste the handled for this  
13 city is that all of the waste is collected and it's taken  
14 to a material recovery facility. That facility --

15 COMMITTEE MEMBER DANZINGER: Oh, it's not source  
16 separated coming to the --

17 MR. USELTON: That facility some time back -- it  
18 may be as far back as seven years -- did a waste  
19 characterization of the material and determined this 26  
20 percent level of recovery. So all of the waste is  
21 processed through a MRF and is being assigned a 26 percent  
22 recovery rate.

23 COMMITTEE MEMBER DANZINGER: Okay. Are they  
24 running it through the lines once or twice?

25 MR. USELTON: That, I don't know.

1 (Laughter.)

2 COMMITTEE MEMBER DANZINGER: I've been to dirty  
3 MRFs before. And when you don't run them through twice,  
4 man, you're going to get low numbers. So -- anyway.

5 The other thing was, on the C&D it references  
6 that 394 tons diverted. What is that as a percentage  
7 of -- I couldn't find -- maybe it's in here, but I  
8 couldn't find -- what is that as a percentage of the C&D  
9 waste generated?

10 MR. USELTON: As a percentage of the C&D waste  
11 would be difficult for us to give you. But I can give you  
12 some reference.

13 COMMITTEE MEMBER DANZINGER: Ballpark.

14 MR. USELTON: About 200 tons moves the city's  
15 rate 1 percent. So for the C&D tonnage, you know, we're  
16 just getting a bit over a percent recovery from that  
17 roll-off or C&D sector.

18 COMMITTEE MEMBER DANZINGER: Okay.

19 BOARD MEMBER CHESBRO: Madam Chair, can I ask a  
20 follow-up question?

21 CHAIRPERSON MULÉ: Sure.

22 BOARD MEMBER CHESBRO: I didn't understand. The  
23 26 percent is based on a seven-year-old waste  
24 characterization study?

25 MR. USELTON: We did visit the facility that

1 processes all of the commercial waste for this city. And  
2 one of our concerns, and something that we'd like to  
3 address in a local assistance plan with this city, is to  
4 make sure that this city is getting its appropriate  
5 portion or diversion percentage. They're going to a very  
6 high quality material recovery facility that has given us  
7 much higher returns in other jurisdictions that we've  
8 looked at. We'd like to have a fresh look at the waste  
9 pile and what they can recover from that. And it would be  
10 part of any plan that we set up that that type of  
11 observation is made.

12 BOARD MEMBER CHESBRO: Well, Madam Chair, it  
13 would be really helpful -- speaking as a non-committee  
14 member -- at some point, either today or at the Board  
15 meeting, from the operator of a facility, if they're here,  
16 to address that discrepancy.

17 CHAIRPERSON MULÉ: Well, as a matter fact, I was  
18 going to do just that, because there seem to be some  
19 allocation issues here, especially since, you know, the  
20 material is not source -- the commercial material in  
21 particular is not source separated prior to its going to  
22 the MRF. So it's really -- I think it's difficult to  
23 really accurately provide the daily tonnage reports to the  
24 jurisdiction. And I believe, according to what staff has  
25 indicated earlier, that's one of the reasons for this

1 compliance order, is to get awe these issues ironed out  
2 and to increase the accuracy of the allocation. So that  
3 if the city is in fact diverting more material, they will  
4 get their appropriate allocation; is that correct?

5 MR. USELTON: That is correct. In fact, this is  
6 a city where the basic program infrastructure should work.  
7 It should work. And it's been -- it's one of our last  
8 biennial reviews, because we tried very hard to find a way  
9 that we could present this in a better light.

10 I think what we're finding is is that there is  
11 some work that needs to happen to get the information  
12 correct and also to pull more people into these programs.

13 CHAIRPERSON MULÉ: Board Chair Brown.

14 BOARD CHAIRPERSON BROWN: Edward, did you say  
15 that the hauler -- a representative from the hauler is  
16 here --

17 MR. REIDHEAD: Yes, I believe so.

18 BOARD CHAIRPERSON BROWN: -- with the facility?

19 MR. REIDHEAD: Yes.

20 BOARD CHAIRPERSON BROWN: So can we -- do they  
21 have a response to the concerns that were raised by Member  
22 Chesbro, that maybe we can get that resolved now?

23 MR. FIERRO: Good afternoon, Board members. My  
24 name is Richard Fierro. I'm with Consolidated Disposal  
25 Service, subsidiary of Republic Industries. And we do



1 own -- Republic Services owns the MRF, CVT out in the City  
2 of Anaheim that services many of the cities that we  
3 operate, including Hawaiian gardens.

4 And it is true that the characterization study  
5 that is currently being applied to the City of Hawaiian  
6 Gardens is about five years old. And when we met with the  
7 manager, we informed him that we're going to be applying  
8 for a new waste characterization study for the City of  
9 Hawaiian Gardens, in fact probably for a couple more of  
10 our cities, to make sure that they are getting the proper  
11 numbers for their commercial, especially in Hawaiian  
12 Gardens; because since then there's been some other  
13 work -- other industries that have come into the city that  
14 has expanded, we feel that it's going to be able to help  
15 the city with their numbers.

16 CHAIRPERSON MULÉ: So you will be improving your  
17 record keeping?

18 MR. FIERRO: Yes, ma'am. Our general manager has  
19 been gone for a couple of weeks. He's back, and I'll be  
20 meeting with him tomorrow morning. And we'll be talking  
21 to CVT, who are implementing this new characterization  
22 study, this week, next week at the latest, so that we can  
23 have something when we meet with the staff members, so we  
24 can show them that this program is, and in fact, been  
25 applied and we'll be getting new numbers.

1           CHAIRPERSON MULÉ: Thank you.

2           Any other questions?

3           Member Peace.

4           COMMITTEE MEMBER PEACE: Well, I guess if we feel  
5 there's allocation issues and issues regarding record  
6 keeping, do they need to be on a compliance order then to  
7 get that straightened out? I'm just wondering why we felt  
8 they really weren't making a good faith effort if we feel  
9 it's just record keeping and that. They did implement all  
10 their SRRE programs?

11          MR. USELTON: Very good comment. Again, we have  
12 had to struggle with this, recognizing that the basic  
13 infrastructure is good. One of the things I do want to  
14 note that wasn't in the agenda item -- or in the  
15 presentation simply because this is information, and we  
16 continue to work with the city to try to understand this  
17 case better; last week we did have an opportunity to go  
18 out to the facility where the waste is initially handled,  
19 and we discovered that as much as one-third of the  
20 residential containers, the material that the residents  
21 have actually set aside in the residential recycling  
22 container is not being processed. That in itself could  
23 have a huge improvement in the city's ability to achieve  
24 the requirement. But it's not going to -- there isn't a  
25 quick fix for that or a record-keeping fix for that. It's

1 going to require a lot of public education. It's going to  
2 require a very specific plan on how to deal with that area  
3 of the city that is not engaging in the city's program.  
4 And we feel that through the local assistance plan we can  
5 help the city look at some solutions for that.

6 CHAIRPERSON MULÉ: So, Steve, let me understand  
7 this. You're saying that a third of the material that was  
8 set aside for recycling -- the residential recycling waste  
9 or stream, if you will, a third of that could not be  
10 processed because it was contaminated?

11 MR. USELTON: This is correct. This is  
12 information that was provided to us during a field visit  
13 to the initial facility that handles the material. And,  
14 you know, our -- we are very surprised -- obviously this  
15 could have a huge -- you know, if we could get these folks  
16 to do it the right way --

17 CHAIRPERSON MULÉ: -- to recycle -- right.

18 MR. USELTON: -- this is going to make the  
19 situation much better for the city.

20 CHAIRPERSON MULÉ: So, again, another issue with  
21 the city is it's not that they don't have programs;  
22 they're just not being implemented? You don't have all  
23 the pieces together, you don't have the public outreach  
24 and all the other pieces that are going to make this work,  
25 is that --

1 MR. USELTON: Yes, that's right.

2 CHAIRPERSON MULÉ: Because that's what I'm trying  
3 to piece together here.

4 COMMITTEE MEMBER DANZINGER: And that is an  
5 appropriate part of a compliance order in a local  
6 assistance plan, is to get all those pieces in place.

7 BOARD MEMBER CHESBRO: Madam Chair?

8 CHAIRPERSON MULÉ: Yes.

9 BOARD MEMBER CHESBRO: And good faith effort is  
10 not a one-dimensional assessment, right? It's not just  
11 simply that you put programs in place. Because you put  
12 programs in place and have them fail and there's no  
13 discernable reason -- the thing that distinguishes you  
14 from your community next door that put the same programs  
15 in place and is succeeding. So it has to go beyond just  
16 simply having the programs in place. Why aren't they  
17 working and what is it that -- at this point in time,  
18 what, 16 -- going on 17 years later, you know, when the  
19 vast majority of jurisdictions have complied, the good  
20 faith becomes a tougher test to meet, I think, you know.  
21 There's not -- But one of the ways you can meet it is to  
22 identify the factors that are -- you know, say, "Look,  
23 these are things we can't control." But if you can't  
24 identify those factors, then it seems to me that focusing  
25 on what's failing in the system and trying to get them to

1   comply is what's needed.

2               CHAIRPERSON MULÉ:   Okay.   Any other comments or  
3   questions from anybody?

4               COMMITTEE MEMBER PEACE:   Have they ever  
5   considered being part of the LARA?   Would that help at all?

6               MR. USELTON:   I don't know if they've ever  
7   considered being part of LARA.   That would be a question  
8   for the city.

9               But I would point out that whether a LARA member  
10   or not, these programs really need to get the attention  
11   and -- the infrastructure's there.   It's getting everyone  
12   involved and making sure that the materials get handled in  
13   the way that they've been laid out.   This city can get to  
14   50 percent.   And I think we can help them identify the  
15   programs to get there.

16              But I guess my point is is LARA or not, we would  
17   want to highly encourage that these programs get  
18   straightened out.

19              CHAIRPERSON MULÉ:   Absolutely.

20              COMMITTEE MEMBER PEACE:   Yeah, I guess when my  
21   original -- things that were going through my head when I  
22   read this, okay, Hawaiian Gardens is small, it's one  
23   square mile, 16,000 people, the biggest business is a card  
24   room.   I mean there are -- it's a relatively poor  
25   community, 22 percent below the poverty level.   They're at

1 .0005 percent of the waste stream. And I think even  
2 though I'd like to see all jurisdictions reach or exceed  
3 the 50 percent, I guess the first thing going through my  
4 mind is I was just wondering if this was -- this small  
5 jurisdiction, this small waste stream was the best use of  
6 Board resources.

7           So you think you're just going to be able to go  
8 down there and help them to just look at these, like you  
9 said the allocation issues, help them with their record  
10 keeping and that --

11           PROGRAM DIRECTOR LEVENSON: Member Peace, let me  
12 try and take a crack at that.

13           Of course under statute we're obligated to  
14 undertake this review -- biennial review process for all  
15 jurisdictions in the state and to examine them regardless  
16 of their size, their socioeconomic status and so on. And  
17 in fact we've done some subsequent analyses, and it  
18 doesn't look like there's any real correlation between the  
19 socioeconomic factors and the diversion rate nor the  
20 city's population size and diversion rate.

21           But, you know, it's our view that, not only are  
22 we statutorily obligated, but this is the opportunity for  
23 us to really pin down the kinds of assistance that is  
24 needed, one, to fix the allocation issue, but also to make  
25 sure that the city is fully implementing the wide range of

1 programs identified in its SRRE.

2           So that the development of a local assistance  
3 plan is kind of a collaborative process with the city. It  
4 gives us a document that tracks progress, something that  
5 the city's accountable for. And that if all goes well,  
6 they should be at 50 percent in a reasonable timeframe and  
7 we take them off the order.

8           So for us this is a kind of normal business in  
9 terms of how we treat all of those -- all of the  
10 jurisdictions within the state.

11           COMMITTEE MEMBER PEACE: I guess I'm just  
12 thinking, because I come from an area that's -- it is near  
13 and dear to my heart. And I know the environmental  
14 services down south is really, really trying to do a good  
15 job. But there are issues in this particular jurisdiction  
16 down south. And we're asking this little tiny  
17 jurisdiction to have a C&D ordinance and do all these, you  
18 know, programs. And I know the jurisdiction where I'm  
19 from doesn't have a C&D ordinance. They're sending  
20 300,000 tons of C&D to the landfill every year. They  
21 don't have a mandatory -- mandatory industrial recycling.  
22 And I know in 2004 they were at their 50 percent. But  
23 when it comes to staff resources and stuff, I'd like to  
24 see a lot of our staff resources -- when their next report  
25 comes back, to have, you know, enough staff resources to

1 really look carefully at the diversion rate of some of  
2 those jurisdictions.

3 BOARD CHAIRPERSON BROWN: Well, but they've met  
4 their statutory obligations. So we cannot bind them to a  
5 higher standard once they've met their statutory  
6 obligation. That needs to be dealt with in the  
7 Legislature.

8 COMMITTEE MEMBER PEACE: Right, exactly. But we  
9 can look at the accuracy of the diversion rate with a --

10 BOARD CHAIRPERSON BROWN: That's a whole other  
11 issue too.

12 COMMITTEE MEMBER PEACE: -- look at the accuracy  
13 of the diversion rate.

14 BOARD CHAIRPERSON BROWN: But I think the issue  
15 on this agenda item is that this jurisdiction regardless  
16 of their economic status or their population deserves the  
17 same kind of local assistance that we provide to every  
18 other jurisdiction throughout the state. And if giving --  
19 and putting them on a compliance order knowing that the  
20 issues are allocation and other items, then I think we  
21 need to assist them in getting to where they would like to  
22 be as a jurisdiction.

23 So, you know, other issues with other  
24 jurisdictions aside, you know, I think that this is an  
25 effort by the Office of Local Assistance to give them a



1 leg up and provide the extra assistance to get them to  
2 where they want to be, which is 50 percent.

3 So from a non-Committee member, my 2 cents.

4 CHAIRPERSON MULÉ: Well pleaded. Thank you.

5 COMMITTEE MEMBER DANZINGER: Yeah, well put. I  
6 agree.

7 CHAIRPERSON MULÉ: Any other questions or  
8 comments?

9 Do I have a motion?

10 COMMITTEE MEMBER DANZINGER: Yeah, I'd like to  
11 move Resolution 2007-148.

12 COMMITTEE MEMBER PEACE: I'll second that.

13 CHAIRPERSON MULÉ: It was moved by Member  
14 Danzinger, seconded by Member Peace.

15 Call for roll, Donnell.

16 SECRETARY DUCLO: Members Danzinger?

17 COMMITTEE MEMBER DANZINGER: Aye.

18 SECRETARY DUCLO: Peace?

19 COMMITTEE MEMBER PEACE: Aye.

20 SECRETARY DUCLO: Chair Mulé?

21 CHAIRPERSON MULÉ: Aye.

22 That passes. We will put that on consent.

23 Thank you all for being here. Appreciate your  
24 making the trip.

25 Thank you, Edward. Very Good.

1           Thanks, Steve.

2           Item D -- Committee Item D was pulled. So we're  
3 going to move to Committee Item E, Board Item 4.

4           PROGRAM DIRECTOR RAUH: Yes, Madam Chair.

5           Item E is Consideration of a Revised Full Solid  
6 Waste Facility Permit for the Barstow Sanitary Landfill in  
7 San Bernardino County.

8           And here to present the item are Dianne Ohiosumua  
9 and Mark de Bie.

10          Hi. Thanks, Dianne.

11          MS. OHIOSUMUA: Good afternoon.

12          CHAIRPERSON MULÉ: Good afternoon, Dianne.

13          MS. OHIOSUMUA: The proposed permit will allow  
14 the operator to update the Joint Technical Document to  
15 reflect operations, change the estimated closure year,  
16 change the design capacity, allow the implementation of  
17 the Disposal Site Diversion Program, and minor  
18 modifications and deletions of the language in the  
19 enforcement agency condition section of the proposed solid  
20 waste facility permit.

21          Board staff finds that the LEA was made all the  
22 necessary findings relevant to the permit. However, at  
23 the time this item was prepared, Board staff had  
24 determined all but one of the requirements for the  
25 proposed permit.

1           In the backroom we've amended the agenda item to  
2 show that Board staff has now determined all of the  
3 requirements. And there was also a couple of corrections.

4           Now that Board staff has made all the required  
5 refindings, Board staff recommends that the Board adopt  
6 Solid Waste Facility Permit Decision No. 2007-0150  
7 concurring with the issuance of Solid Waste Facility  
8 Permit No. 36-AA-0046.

9           The operator and the San Bernardino County LEA  
10 are here to answer any questions that you may have on this  
11 project.

12           That concludes staff's presentation.

13           CHAIRPERSON MULÉ: Thank you, Dianne.

14           MS. OHIOSUMUA: Thank you.

15           CHAIRPERSON MULÉ: Do we have any questions for  
16 staff or for the operator?

17           COMMITTEE MEMBER DANZINGER: A quick curiosity  
18 question.

19           There's a reference to the Disposal Site  
20 Diversion Program. Is that anything other than just the  
21 obvious? Or is there something distinctive about that?  
22 That sounds like the kind of thing that would be in  
23 everything. But because it's referenced here, I thought:  
24 Is there something different or innovative about that  
25 program?

1 MS. OHIOSUMUA: The only reason why it's  
2 mentioned is because there was a condition in the  
3 previous -- I mean in the current permit that did not  
4 allow that.

5 COMMITTEE MEMBER DANZINGER: Didn't allow what?

6 MS. OHIOSUMUA: Did not allow them to have a  
7 diversion program at the landfill.

8 COMMITTEE MEMBER DANZINGER: Oh.

9 CHAIRPERSON MULÉ: What San Bernardino county is  
10 doing is they piloted a program last year at the  
11 Victorville landfill where they're trying to pull as much  
12 recyclable material from the waste stream, after it enters  
13 the gate but prior to it being landfilled. And it was  
14 very successful in Victorville. As a matter of fact, I  
15 was out there last year, in the middle of July, to see  
16 that program, and I know that it was such a success that  
17 they're trying to expand it to their other landfills.  
18 So --

19 COMMITTEE MEMBER DANZINGER: Oh, that's --

20 CHAIRPERSON MULÉ: Did I get that right?

21 Mark.

22 PERMITTING AND LEA SUPPORT DIVISION CHIEF de BIE:

23 Since Ted mentioned my name, I thought I'd stand  
24 up. Mark de Bie with -- what are we? -- Waste Compliance  
25 Mitigation Program.

1           That is exactly our understanding. And I saw the  
2 LEA nodding their heads too. We expect that all the  
3 landfills will adjust their permits as needed. Not all of  
4 them need to drop conditions but come up to us either as  
5 modifications or revisions to reflect this ongoing program  
6 of establishing direct diversion activities at each and  
7 every of their landfills.

8           COMMITTEE MEMBER DANZINGER: Well, that sounds  
9 terrific. I mean that does. I imagine they're excited  
10 about that. That's pretty cool. Thanks.

11          CHAIRPERSON MULÉ: Any other questions?

12          Do I have a motion?

13          COMMITTEE MEMBER DANZINGER: Yes. I'll move  
14 2007-150.

15          COMMITTEE MEMBER PEACE: Second.

16          CHAIRPERSON MULÉ: Moved by Danzinger, seconded  
17 by Peace.

18          We'll substitute the previous roll. And we'll  
19 put that one on consent as well.

20          Again, thank you all for being here. Appreciate  
21 your making the trip.

22          Our next item is Committee Item F.

23          PROGRAM DIRECTOR RAUH: Yes, that's correct,  
24 Madam Chair.

25          This is Consideration of a Revised Full Solid

1 Waste Facility Permit for the Guerneville Transfer Station  
2 in Sonoma County.

3 And here to present the item is Sue O'Leary of  
4 the Board staff.

5 MS. O'LEARY: Good afternoon.

6 The Guerneville Transfer Station is owned and  
7 operated by the County of Sonoma Department of  
8 Transportation and Public Works. The operator's applied  
9 for an increase in the facility's acreage from 1.5 acres  
10 to 3.12 acres. And that's in order to relocate the metal  
11 storage area, which is currently located in the middle of  
12 the facility, 300 feet to the southeastern corner of the  
13 facility. This action will provide better traffic flow  
14 within the facility as well as result in sufficient space  
15 to maneuver vehicles to provide for the safe unloading,  
16 loading, and storage of recovered metals.

17 Staff conducted a pre-permit inspection on June  
18 8th, 2007, and found no violations of state minimum  
19 standards.

20 Staff has made all the findings required for the  
21 Board to concur in the proposed permit and recommends  
22 Option 1, Board adoption of Resolution 2007-151, and  
23 concurrence in the issuance of the Solid Waste Facilities  
24 Permit 49-AA-0139.

25 That concludes staff's presentation.

1 CHAIRPERSON MULÉ: Thank you, Sue.

2 Do we have any questions?

3 No questions.

4 Do I have a motion?

5 COMMITTEE MEMBER DANZINGER: Move resolution

6 2007-151.

7 COMMITTEE MEMBER PEACE: Do we need to say

8 "revised" on that one?

9 COMMITTEE MEMBER DANZINGER: Do we?

10 Is this revised?

11 CHAIRPERSON MULÉ: Well, it is --

12 COMMITTEE MEMBER PEACE: My resolution has "have"

13 and "have not".

14 COMMITTEE MEMBER DANZINGER: Revised.

15 MS. O'LEARY: The resolution will have to be

16 revised between the Committee and the Board meeting. We

17 had the -- did the pre-permit inspection. And with the

18 timing of the deadline, we didn't get to that.

19 CHAIRPERSON MULÉ: Okay. Thanks, Sue.

20 COMMITTEE MEMBER DANZINGER: Thanks.

21 Okay. Move Resolution 2007-151 Revised.

22 COMMITTEE MEMBER PEACE: Second.

23 CHAIRPERSON MULÉ: Okay. Moved by Danzinger,

24 seconded by Peace.

25 We'll substitute the previous roll. And move

1 that one to our Board consent agenda.

2 Thank you for being here. Appreciate it.

3 Our next item is Committee Item G, Board Agenda  
4 Item 6.

5 PROGRAM DIRECTOR RAUH: Yes, Chair Mulé. This is  
6 Ted Rauh again.

7 This is Consideration of a New Full Solid Waste  
8 Facility Permit for a Transfer Facility for the Alameda  
9 County Industries Transfer Facility in Alameda County.

10 And here to present the item is Reinhard  
11 Hohlwein.

12 MR. HOHLWEIN: Good afternoon.

13 Before we get going on this, an inconsistency has  
14 been pointed out in the resolution where it has the  
15 Alameda County Planning Department approving the CEQA  
16 document. It was actually the City of San Leandro. So  
17 we'll adjust that before the Board meeting for the item.

18 And we're talking about a -- got to get the  
19 bifocals out.

20 Talking about a New Solid Waste Facilities Permit  
21 for the Alameda County Industries Transfer Facility, which  
22 is located in San Leandro in the southern portion of  
23 Alameda County.

24 The surrounding land uses to this facility are  
25 exclusively industrial. This permit action is described



1 as new because the current iteration of the site is a  
2 direct transfer facility which is supported only by a  
3 registration tier permit, not a full permit.

4           The new full permit will allow the operator to  
5 incorporate a resource recovery facility in the form of a  
6 MRF sorting curbside recyclables, which it previous did,  
7 but was not permitted as such because it was below the  
8 necessary residual threshold.

9           A sealed container operation that is a  
10 notification tier operation also on the same parcel will  
11 not be included in the new full permit and will retain its  
12 notification status.

13           The operator will continue to accept and transfer  
14 waste from commercial haulers handling waste from San  
15 Leandro.

16           This proposed permit as submitted will increase  
17 the permitted tonnage, will slightly increase the daily  
18 traffic vehicle count. The LEA has found the facility  
19 consistently in compliance with state minimum standards.  
20 We also did an inspection out there and found it in full  
21 compliance.

22           Staff have made all the required findings. And,  
23 therefore, we recommend that the Board concur in the  
24 issuance of a new proposed permit as submitted by the LEA.

25           And should you have any questions, the operator

1 and the LEA are both here to answer those.

2 CHAIRPERSON MULÉ: Thank you very much. Good  
3 report.

4 Do we have any questions for staff or for the  
5 operator?

6 Thank you for being here. Appreciate it.

7 COMMITTEE MEMBER PEACE: I just had one comment.

8 We didn't have a whole 60 days to look at this  
9 and another revision came in late. Does staff feel that  
10 they had enough time to adequately review everything.

11 PERMITTING AND LEA SUPPORT DIVISION CHIEF de BIE:  
12 Reinhard said we had plenty of time.

13 COMMITTEE MEMBER PEACE: Okay.

14 PERMITTING AND LEA SUPPORT DIVISION CHIEF de BIE:  
15 I believe this was one of those that we saw draft  
16 documents well in advance and had a lot of time to look at  
17 it in that fashion. So when the document came formally  
18 submitted, we already had a good sense of what the  
19 situation was.

20 COMMITTEE MEMBER PEACE: We should thank the LEA  
21 then for sending us a draft document with plenty of time  
22 to look at it.

23 Okay. Thank you.

24 CHAIRPERSON MULÉ: They did a good job.

25 COMMITTEE MEMBER DANZINGER: Yeah, this whole

1 thing -- I mean this is about as squared away as squared  
2 away gets.

3 I'll move Resolution 2007-152.

4 COMMITTEE MEMBER PEACE: Does it say revised on  
5 that one?

6 CHAIRPERSON MULÉ: Revised.

7 COMMITTEE MEMBER DANZINGER: Revised. Sorry.

8 COMMITTEE MEMBER PEACE: Second.

9 CHAIRPERSON MULÉ: Moved by Member Danzinger,  
10 seconded by Board Member Peace.

11 We'll substitute the previous roll. And put that  
12 one on consent as well.

13 Thank you very much for being here today.

14 Our final agenda item today is Committee Item I,  
15 Board Agenda Item 8.

16 Ted.

17 PROGRAM DIRECTOR RAUH: Would you like to lead  
18 off?

19 CHIEF COUNSEL BLOCK: Okay. I didn't know if you  
20 wanted to introduce me or not.

21 PROGRAM DIRECTOR RAUH: Well, I'll certainly  
22 introduce.

23 Elliott is going to make an initial presentation.  
24 And I'm here to answer any questions.

25 CHAIRPERSON MULÉ: Thank you.

1 (Thereupon an overhead presentation was

2 Presented as follows.)

3 CHIEF COUNSEL BLOCK: And I'm making the  
4 presentation today because somehow approved a vacation for  
5 Wendy so she could be in the Caribbean this week, which is  
6 where I think I'd rather be.

7 (Laughter.)

8 CHAIRPERSON MULÉ: I think we'd all rather be  
9 there.

10 CHIEF COUNSEL BLOCK: Agenda Item 8, Committee  
11 Item I, is for Consideration of a Grant from two different  
12 funds, the Waste Tire Enforcement Fund and also the Solid  
13 Waste Disposal and Codisposal Site Cleanup Program Fund to  
14 the California District Attorneys Association.

15 This is what we refer to colloquially as a direct  
16 grant. And it's based on the fact that the CDAA's Circuit  
17 Prosecutor Program provides some unique services that we  
18 would not be able to obtain elsewhere.

19 Over the years -- and this not the first year  
20 that we've had this grant -- they've been providing  
21 environmental training for both D.A.'s and regulators,  
22 LEAs and our staff as well, and they prosecute in the case  
23 of this grant, waste tire cases around the state for us.

24 There we go.

25 --o0o--

1 CHIEF COUNSEL BLOCK: As you may know, while the  
2 Board has authority to prosecute administrative cases and  
3 to deny or revoke permits, the criminal penalties and any  
4 civil action for penalties the Board is not authorized to  
5 do. We would have to use either the Attorney General's  
6 Office or D.A.'s. And the Circuit Prosecutor Project  
7 essentially uses a staff of district attorneys who are  
8 then deputized for various jurisdictions around the state  
9 so they can prosecute those cases for us.

10 --o0o--

11 CHIEF COUNSEL BLOCK: And obviously this is an  
12 enforcement tool that is very useful for this program. It  
13 provides some additional penalties. And as I mentioned  
14 before, they do of course also provides some training for  
15 us.

16 --o0o--

17 CHIEF COUNSEL BLOCK: The initial pilot project  
18 was in 2003. The five-year tire plan has been allocating  
19 a hundred thousand dollars per year since then for the  
20 project. We've successfully through this program  
21 prosecuted a number of cases since 2002, at least 16 waste  
22 tire cases. However, interestingly enough, although we've  
23 allocated a hundred thousand dollars per year because of  
24 the vagaries of cases and obviously what particular cases  
25 are out there and whether they involve waste tires or not,

1 on the average -- and it varies from year to year -- CDA  
2 has only actually been only able to draw about \$25,000 a  
3 year of that hundred thousand dollars a year.

4 --o0o--

5 CHIEF COUNSEL BLOCK: So one of the things that  
6 we're doing in this item which is different from previous  
7 items is we're looking at split funding this project. And  
8 we will have identified the fact that the 2136 program,  
9 the Solid Waste Disposal and Codisposal Site Cleanup --  
10 boy, that's a long name -- program, also we have a need  
11 for attorneys, prosecutors -- prosecutors is not exactly  
12 the right term here -- but to basically go into court when  
13 we need access to site cleanups that they're not being  
14 allowed.

15 The advantage of CDA -- obviously we could use  
16 the Attorney General's Office. Add advantage of CDAA is  
17 they can provide these services to a lot of rural  
18 jurisdictions around the state directly to the LEAs that  
19 are working with us on these cases and we can move quickly  
20 and efficiently in this regard.

21 So this item is actually not only asking  
22 for -- is actually asking for an approval of a direct  
23 grant: \$50,000 from each of those two funds, as opposed  
24 to just \$100,000 from the Waste Tire Fund.

25 Well, that's the end of her slide show.

1           And I believe -- although I was a little bit busy  
2 here -- I believe we have a representative -- yes, we do.  
3 Michael.

4           Michael Testerman from CDAA is here. And we can  
5 talk to you briefly, if you'd like, about the program and  
6 answer any questions if you have them.

7           MR. TESTERMAN: Good afternoon, ladies and  
8 gentlemen. My name is Michael Testerman. I'm the  
9 Assistant Executive Director with the California District  
10 Attorneys Association. And of course I would be happy to  
11 answer any questions for you that I possibly can about the  
12 program.

13          CHAIRPERSON MULÉ: Thank you.

14          Do we have any questions?

15          Any questions of staff?

16          COMMITTEE MEMBER DANZINGER: I've got a legal  
17 curiosity. I mean this item looks great and I'm  
18 supportive and everything. I've just got a dumb legal  
19 curiosity question here, okay?

20          So we spend the money to take like a property  
21 owner to court to gain access to their site. So we're  
22 going to pay to get access and then we pay to clean up.  
23 There isn't like, by any chance, like a loser-pays  
24 provision in such instances? So that the property owner,  
25 who's recalcitrant and we have to expend money to get

1 access to the site, and then we're going to spend more  
2 money to clean up the disposal, the mess, there's no  
3 like -- I know it's not cost recovery -- but there's no --  
4 this would seem a good place for a loser-pays provision to  
5 be introduced into a legal --

6 CHIEF COUNSEL BLOCK: Well, I actually do believe  
7 that when we are then doing cost recovery, we try to  
8 include any additional costs. For instance, if we have to  
9 go to court to get access because it's not granted, I  
10 believe we do try to include those in the cost recovery.

11 COMMITTEE MEMBER DANZINGER: I mean --

12 CHIEF COUNSEL BLOCK: Any particular case --  
13 whether we can get that or not will depend on the  
14 particular case. But we do try to do that.

15 COMMITTEE MEMBER DANZINGER: Yeah, I would think  
16 of all the people we would pursue cost recovery, if there  
17 was a list in order of like who I would most want to go  
18 after, it would be people who like fight us and make us  
19 spend money to get access to their property. They won't  
20 even let us go on to spend our money to clean it up.

21 So, anyway, that was my curiosity question.

22 CHIEF COUNSEL BLOCK: Absolutely.

23 COMMITTEE MEMBER DANZINGER: Okay, thanks.

24 So if we do it as a matter of routine, then  
25 that's great.



1           CHAIRPERSON MULÉ: Board Member Peace.

2           COMMITTEE MEMBER PEACE: Yeah, I was just going  
3 to say this is a great program. And it's really important  
4 to enforce our environmental laws in our rural  
5 communities.

6           MR. TESTERMAN: Well, I can tell the members of  
7 the Board that to the 30 rural county district attorneys  
8 this program serves, it is very important, very important,  
9 indeed.

10          BOARD MEMBER CHESBRO: And I wanted to -- I was  
11 just going to add to member Peace's comments. It's a  
12 very, very important program, especially in rural  
13 California, because the resources are so -- and in other  
14 areas that I'm aware of it's worked really quite well for  
15 rural counties.

16          MR. TESTERMAN: It is the only program right now  
17 that is providing any kind of prosecution on any level for  
18 environmental crime in rural counties in the State of  
19 California.

20          BOARD CHAIRPERSON BROWN: Actually that is the  
21 most important part. And not to echo what they've said,  
22 so I'll just say thank you very much. I know that CDAA  
23 and the work that you guys provide is a very high priority  
24 for Agency, here at Cal EPA, and the enforcement efforts  
25 that you're providing to this agency for environmental

1 crimes is tremendous. Thank you very much. Very  
2 supportive.

3 MR. TESTERMAN: Well, thank you very much. It's  
4 our privilege to serve.

5 CHAIRPERSON MULÉ: Well, thank you all. I echo  
6 all the comments that were just made.

7 Do I have a motion?

8 COMMITTEE MEMBER PEACE: I'd like to move  
9 Resolution No. 2007-155.

10 COMMITTEE MEMBER DANZINGER: Second.

11 CHAIRPERSON MULÉ: Moved by Member Peace,  
12 seconded by Member Danzinger.

13 Call the roll please.

14 SECRETARY DUCLO: Members Danzinger?

15 COMMITTEE MEMBER DANZINGER: Aye.

16 SECRETARY DUCLO: Peace?

17 COMMITTEE MEMBER PEACE: Aye.

18 SECRETARY DUCLO: Chair Mulé?

19 CHAIRPERSON MULÉ: Aye.

20 And we will put that on fiscal consent.

21 And with that, is there any other public comment?

22 Seeing none, this meeting is adjourned.

23 Thank you all.

24 (Thereupon the Permitting and Compliance  
25 Committee adjourned at 2:50 p.m.)

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board,  
7 Permitting and Compliance Committee meeting was reported  
8 in shorthand by me, James F. Peters, a Certified Shorthand  
9 Reporter of the State of California, and thereafter  
10 transcribed into typewriting.

11 I further certify that I am not of counsel or  
12 attorney for any of the parties to said meeting nor in any  
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 17th day of July, 2007.

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23 JAMES F. PETERS, CSR, RPR  
24 Certified Shorthand Reporter  
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